

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION**

The State of Texas,
Plaintiff,

v.

Alejandro Mayorkas, *et al.*,
Defendants.

No. DR-23-CV-00055-AM

DECLARATION OF KENNETH BLANCHARD

I, Kenneth Blanchard, pursuant to 28 U.S.C. § 1746, and based upon my personal knowledge and information made known to me from official records and reasonably relied upon in the course of my employment, hereby declare as follows:

1. I am the Deputy Directorate Chief of the Strategic Planning and Analysis Directorate (SPAD), U.S. Border Patrol (USBP), U.S. Customs and Border Protection (CBP). I have served in this role since July 15, 2023. Prior to this role, I was Acting Deputy of the USBP Law Enforcement Operations Directorate in 2020 and 2021, and the Deputy Chief Patrol Agent at the Blaine, Washington USBP Sector from July 2021 until my assignment at SPAD.
2. Within USBP, SPAD is responsible for several Divisions, including Business Operations, Doctrine Division, Labor and Settlements Division, Operational Requirements Management Division, Policy and Compliance Division, Planning and Innovation Division, Performance, Reporting, Analysis, and Evaluation Division, and Systems Division. Within SPAD, the Systems Division is responsible for developing and implementing various technological tools to assist in the execution of USBP's mission and for maintaining and upgrading USBP electronic systems of record.

3. With over 60,000 employees, CBP is one of the world's largest law enforcement organizations. As the nation's unified border entity, and in implementation of 6 U.S.C. § 211, CBP takes a comprehensive approach to border management and control, combining customs, immigration, border security, and agricultural protection into one coordinated and supportive activity. CBP's mission priorities include countering terrorism, combating transnational crime, securing the border, facilitating lawful trade and protecting revenue, and facilitating lawful travel. CBP carries out its mission priorities through its subcomponents, which includes USBP. CBP has approximately 16,000 Border Patrol Agents assigned to the southwest border, comprising approximately 26% of the CBP employee workforce. USBP is responsible for patrolling thousands of miles across the Mexican and Canadian land and maritime borders as well as along our coastal waters.
4. I am familiar with the above-captioned litigation and the Court's November 9 and 15, 2023 orders. I am also familiar with the declaration of Elaine Dismuke, including that the e-discovery team has pulled information from seven custodians on November 9, 2023, using the search terms: Barrier; Wire; Impediments; Concertina; Lock; Fence; Gate; Razor; C-wire; and Impede.
5. In order to locate responsive documents, including reports, data, and information, that are in systems maintained by USBP, the Systems Division would be unable to search for and collect from a single source. Instead, there are multiple sources, examples of which are outlined below in paragraphs 6-14, that would have to be searched. For the purposes of this declaration, I presume that the Systems Division would use the search terms outlined in paragraph 4.

6. The Systems Division uses the e3 portal (e3) to collect and transmit data related to law enforcement activities, including biographic, encounter details, and biometric data of individuals encountered by USBP. The e3 system houses approximately nine terabytes of data.
 - a. The Systems Division can conduct and refine a search within e3 for narrative text regarding encounters with individuals within Texas sectors from a particular date range.
 - b. However, such searches are not a primary function of the e3 system. The software developers for the system, therefore, must uniquely craft a query for each search of narrative text. Each unique query takes time to build as the software developers ensure that the query accurately captures the intended narrative text. Based on my experience, it would take approximately one week to build a query in e3 for the terms outlined in paragraph 4.
 - c. e3 is also an operational system that is used in real time by Border Patrol Agents. Thus, the search must run simultaneously with the operational needs of the system, which slows down the query. Based on these factors, it would take approximately a week to search e3 for the terms outlined in paragraph 4.
 - d. Based on my experience, any search for the narrative portion of e3, after its completion, requires additional time to check that the uniquely developed query accomplished the search as expected. Errors can occur for a variety of reasons. For example, e3 is an application comprised of multiple databases, which includes USBP owned and other external government partners owned databases; thus, an e3 query is in actuality multiple queries, to accurately collect different layers of information,

including narrative, detail, and comment fields from multiple databases. Then, the e3 query must be reviewed to ensure that data fields were properly aligned while running the query. It therefore takes approximately a week to verify that the search performed appropriately.

- e. In total, it would take approximately three weeks to build, run, and verify the query as outlined in paragraphs 6.a-d.

7. The Systems Division manages a separate, but related, portion of e3 known as the Prosecutions Module of the e3 portal, which previously documented the status of federal prosecutions cases and generated court documents.

- a. The information relevant to the terms in paragraph 4 is based in narrative data fields.

Because narrative data is a large majority of the data fields in e3, the query will take extended amount of time to run the search through the many data fields. The possibility of errors outlined in paragraph 6.d also applies to the query of the Prosecutions Module. Additionally, verification of this data set will also be lengthy because of the sheer volume of data anticipated from the search.

- b. For these reasons, for Systems Division to complete the requested search, it would take approximately 4 weeks to build, run, and verify the search.

8. The Systems Division manages USBP's Tracking Sign and Modeling (TSM). TSM is a web-based application that stores information regarding USBP agent tracking efforts, sensor activations, and reports from members of the public related to border crossings, among other activities. USBP can view individual tracking events and retrieve the particulars of an event including, but not limited to, time and location information.

- a. The Systems Division can conduct and refine a search within TSM for narrative text regarding a noncitizen encounter within Texas sectors during a particular date range. However, such searches are not a primary function of the TSM system. Thus, the developers for the system must uniquely craft a query for each search of narrative text.
 - b. Each unique query takes time to develop, as the software developers ensure that the search accurately captures the narrative text intended for the search. Based on my experience, it would take approximately one week to build a query for the terms outlined in paragraph 4.
 - c. Moreover, TSM is an operational system that is used in real time by Border Patrol Agents. Thus, the search must run simultaneously with the operational needs of the system. TSM is also currently undergoing a large modernization effort that includes changing the source code. As a part of the modernization effort, there is a weekly release during which a query cannot be run. Therefore, the data query must be conducted to avoid the weekly release, otherwise there is a potential for interruption to the query.
 - d. For the Systems Division to complete the requested search, it would take approximately two weeks to build the query, run the search, and verify the information pulled from the query.
9. The Systems Division manages the Intelligent Computer Assisted Detection system (ICAD III), which is USBP's primary system for tracking agent dispatches and monitoring Unattended Ground Sensor (UGS) alarms. USBP records reports from other federal, state, or other agencies, individuals, and 911 calls in ICAD III in real time. ICAD III is used in

conjunction with TSM to document agent activities, but the age difference of the applications has prevented full integration. Thus, searches must be conducted in both systems, despite the overlap.

- a. A custom query must be built for this search due the limitations in the software for ICAD III, which was built thirty years ago. To build a query that could yield the requested results, USBP needs to construct a customized query in a different programming language to produce the data requested.
- b. Verification will also be time intensive for an ICAD III search. Among other verification processes, USBP will need to manually match the event numbers from both systems to ensure that the query accurately captured the information for a search of the terms outlined in paragraph 4.
- c. For the Systems Division to complete the requested query, it would take approximately two weeks—one week to build and run the information pulled from the search and one week to make sure events with both ICAD III and TSM records are appropriately pulled from the right data fields.

10. The Systems Division manages the Border Patrol Enforcement Tracking System (BPETS), which is a web-based application that allows USBP to manage the deployment of personnel and resources and enhances incident analysis with the additional information of staffing and scheduling. This tool permits USBP to determine which agents were assigned to particular sectors over a defined period of time. A search of BPETS database can be conducted for the number of individuals that were assigned to a Texas Border Patrol sector from March 6, 2021, to November 9, 2023.

- a. On November 16, 2023, USBP conducted an initial search of BPETS database, which indicated that there were approximately 13,392 Border Patrol Agents assigned to a Texas Border Patrol Sector from March 6, 2021, to November 9, 2023. However, USBP is currently in the process of moving BPETS to a cloud system. During this system move, it was discovered that the data needed to be reindexed, which will require more time to run the query and verify the results.
 - b. Finally, USBP must compile a series of searches to provide the requested searches. It will, therefore, take approximately two weeks to build, run, and verify the search.
11. The Systems Division manages USBP's Enterprise Geospatial Information Services (eGIS), which displays data on maps to monitor activities along the U.S. border for potential border vulnerabilities, corrective actions, border incidents, assets, and other events, such as arrests and seizures, using geographic data.
 - a. The Systems Division does not have a system to search eGIS. Additionally, eGIS users can create their own mapping content, which the Systems Division cannot necessarily search using key terms. Therefore, the Systems Division will need to conduct a manual and automated search of user records in eGIS. The Systems Division has not previously developed a search for this type of request.
 - b. It would take approximately two weeks for the Systems Division to determine, based on system capabilities, developer research regarding the eGIS' limitations outlined above, and other factors, whether a search can be completed.
12. The Systems Division manages the Border Safety Initiative Tracking System (BSITS) Module, which tracks the number of deaths encountered, and rescues made, by USBP while on patrol. The module tracks the disposition of the individual and type and location of the

event. The database contains free form entry fields in which USBP agents can record narrative information.

- a. For the Systems Division to complete the requested search, it would need to run a query of the free form entry fields. Software developers would need to build a unique query for the terms because there is no search capability for BSITS.
- b. While it is possible to build such a query, as with many of the systems that USBP utilizes, this is a live system that is simultaneously used to meet mission needs. The necessary operational use of this system will slow down the query.
- c. Moreover, given that this query will be exclusively developed to gather information for this case, the query would need to be verified to ensure that it captured the intended data. Based on my experience, it would take approximately two weeks to develop, run, and verify such a query.

13. USBP sectors and stations maintain Evolving Situation Reports (ESRs) in different systems.

- a. To collect ESRs, USBP headquarters would need to reach out to each Sector individually and ensure that each Sector manually searched for ESRs based on the terms outlined in paragraph 4.
- b. Based on my experience, it would take approximately a week and a half to have Sectors reach out to Border Patrol Agents and pull and compile the data.

14. In addition to the databases listed above, there are potentially other non-USBP CBP offices with information contained in the terms outlined in paragraph 4. USBP, through the Systems Division, would need coordinate with these offices to determine what information exists, if any, and how to conduct relevant system searches. For example, USBP would work with CBP Watch, an office within CBP, to ensure that its records known as Significant Incident

Reports (SIRS) were individually searched based on the terms I outlined in paragraph 4. To provide another example, USBP would need to coordinate a query or search on MedPAR, which is an U.S. Immigration and Customs Enforcement (ICE) system that records medical incidents, including those that occur in CBP custody.

15. The USBP systems do not contain individual personnel files, handwritten notes, or any data from cellphones, such as text messages and photos.

- a. For USBP to collect relevant handwritten notes, each Sector Chief would need to order its employees to manually collect this data. This process would take an indeterminate amount of additional time.

16. The Systems Division does not have a system of records or database that maintains individual agents' text messages and associated data. Thus, USBP will have to coordinate with individual Sector leadership to ensure that agents were directed to preserve, maintain, and collect any information based on the search parameters outlined in paragraph 4. To collect relevant cellphone data, USBP will also likely need to reach out to the cellphone carriers. This would take an indeterminate amount of time and could depend on the cellphone carriers' timely responses.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 20th day of November, 2023.

Kenneth Blanchard
Deputy Directorate Chief
Strategic Planning and Analysis Directorate
U.S. Border Patrol
U.S. Customs and Border Protection